

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA                    )  
  )  
                  v.                                ) Cr. No. 04-10235-MLW  
  )  
CORY HUBBARD                                 )

ORDER

WOLF, D.J.

June 27, 2005

For the reasons described in detail at the April 21, 2005 hearing on defendant Cory Hubbard's Motion to Revoke Detention (the "Motion"), the court decided that the government had proved by clear and convincing evidence that Hubbard would be a danger to the community if released unconditionally. However, the court reserved judgment on whether there is a combination of conditions that would reasonably assure the safety of the community if Hubbard were released. See United States v. Tortora, 922 F.2d 880, 886 (1st Cir. 1990); United States v. Simone, 317 F. Supp. 2d 38, 43 (D. Mass. 2004). In view of the April 27, 2005 report of Pretrial Services Officer September Lee-Brown, the court now finds that there is clear and convincing evidence that there is not a combination of conditions that will reasonably assure the safety of the community. See 18 U.S.C. §3142(f), (g). Therefore, the Motion is being denied.

More specifically, while the proposed third-party custodian Paula Fernandez is generally suitable, it is not feasible to order that she live with Hubbard in her mother's home in North Dartmouth, Massachusetts or that the home be posted as security. Ms. Fernandez must reside in her subsidized apartment in New Bedford,

Massachusetts to be, as she wishes, legally entitled to keep it. Moreover, it is doubtful that her brother Paul is competent to decide whether to post as security his share of the North Dartmouth home and thus risk losing it if Hubbard flees. Therefore, ordering that the North Dartmouth home be posted as security and that Hubbard live with Ms. Fernandez in that residence, on electronic monitoring, are not feasible conditions of release. In the absence of these conditions, there is not a combination of conditions of release that will reasonably assure the safety of the community.

Therefore, the Motion (Docket No. 18) is hereby DENIED.

/s/ MARK L. WOLF  
UNITED STATES DISTRICT JUDGE